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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,736	10/06/2003	William F. McWalter	SUNMP153	5301

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EXAMINER

FRANKLIN, RICHARD B

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/680,736

Applicant(s)

MCWALTER ET AL.

Examiner

Richard Franklin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1 – 20 have been examined.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - a. Claims 1 – 14 are drawn to a method and computer program for determining physical device types in software, classified in class 710, subclass 8.
 - b. Claims 15 – 20 are drawn to a software component with a software type, classified in class 710, subclass 105.
3. The inventions are distinct, each from the other because of the following reasons. Inventions A and B are related as disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown as separately usable. In the instant case, Invention A has separate utility as it is a method and computer program for determining physical device types in software; Invention B has separate utility as it is a software component with a software type. See MPEP 806.05(d).
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above, the search required for Invention A is not required for Invention B and the search required for Invention B is not required for Invention A.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. During a telephone conversation with Mr. Albert Penilla on July 28, 2005, a provisional election was made without traverse to prosecute the invention of Invention A, claims 1 – 14, therefore claims 15 – 20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Specification

8. The uses of the trademarks HONDA, CADILLAC, and NISSAN have been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 – 14 are rejected under 35 U.S.C. 102(b) as being anticipated by

Sharpe et al. U.S. Patent No. 6,094,600.

c. As per Claims 1 and 8, Sharpe et al. teach a system that is connected to a number of different devices. The devices are represented in the system by object linking and embedding (OLE) objects stored in a server network that can communicate with the devices through device description services (DDS; Fig 2, Col 2 lines 41 – 53) that are provided by the devices. The OLE objects hold different information about the devices including names and categories the devices fall under (Figs 3 and 4A – 4C, Col 16 lines 6 – 36). These names are determined by the system from information provided by a compiled binary format device description language (DDL; Col 2 lines 41 – 62) called a device description (DD; Col 2 line 63 – Col 3 line 20). Application programs can communicate with a digital control interface (DCI). The OLE objects have a set of methods and functions that allow the application to use them. The application can request a device from a device name (Col 45 line 49 – Col 64 line 23). The

OLE object selects the device that matches the name that was given in the argument of the function.

d. As per Claims 2 and 9, Sharpe et al. teach a system with a hierarchy of OLE objects that can be used by an application to retrieve information associated with a device in the system (Col 13 line 62 – Col 14 line 14). The hierarchy includes a number of types of naming data that can be retrieved by the application (Figs 3 and 4A – 4C). The data that is retrievable includes the information and physical device name (Col 16 lines 11 – 13). The physical device name is embodied as a string of characters (Fig 3).

e. As per Claims 3 and 10, Sharpe et al. teach a system where an OLE handle is determined by the network servers and is given to the DCI so the application can get access to it quicker (Col 18 lines 33 – 41).

f. As per Claims 4 and 11, Sharpe et al. show a system where the names of the devices are stored in the OLE objects as literal character strings (Figs 3 and 4A – 4C, Col 46 lines 10 – 20).

g. As per Claims 5 and 12, Sharpe et al. teach a system where devices are represented as OLE objects in software. The OLE objects are capable of receiving data from the devices and sending data to the devices through the use of a set of functions defined by the OLE objects (Col 39 line 40 – Col 67 line 65). The OLE objects contain information about how to interface with the devices from reading the devices DD's (Col 18 lines 18 – 24).

h. As per Claims 6 and 13, Sharpe et al. teach that the OLE objects have an interface that is used to gain access to the information in the OLE objects through a set of functions (Col 39 line 40 – Col 67 line 65).

i. As per Claim 7 and 14, Sharpe et al. teach a system with an OLE hierarchy as a logical device manager that stores the OLE objects representing information available from devices in the system. The OLE hierarchy defines the OLE objects that are needed to store the information that is available from the DD's of the devices (Col 18 lines 18 – 24). The OLE hierarchy is able to receive the logical name of a device through the OLE objects.

Conclusion

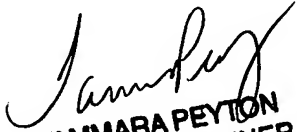
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Franklin whose telephone number is (571) 272-0669. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on (571) 272-4083. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard Franklin
Patent Examiner
Art Unit 2182



TAMMARA PEYTON
PRIMARY EXAMINER